

Message

From: Garypie, Catherine [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7C32E87A1A3D4DED8F1A6044B9F649DD-CGARYPIE]
Sent: 9/15/2017 9:02:02 PM
To: Deborah Gail Musiker [Debbie.M.Chizewer@law.northwestern.edu]; Chingcuanco, Leonardo [Chingcuanco.Leonardo@epa.gov]; Kaiser, Steven [kaiser.steven@epa.gov]; Toney, Marcy [tony.marcy@epa.gov]; Guerriero, Margaret [guerriero.margaret@epa.gov]; Kaplan, Robert [kaplan.robert@epa.gov]; adouglas@ifa.in.gov; Hollingsworth, Mary [MHolling@idem.IN.gov]; cmorgan@eastchicago.com; bpigott@idem.IN.gov
CC: Geertsma, Meleah [mgeertsma@nrdc.org]; Waikar, Anjali [awaikar@nrdc.org]; Mark Templeton [templeton@uchicago.edu]
Subject: RE: URGENT: Risk to Public Health--Lead Service Line

Debbie – this responds to your call yesterday & the email below. I was planning to call you this afternoon with additional information, but since your email loops in many others, I think it is best to simply reply to your email.

In general, EPA supports the City's lead service line (LSL) replacement activities in East Chicago. As you indicate, EPA is aware of the City's current LSL replacement activities (being conducted by a City contractor). The City informed EPA in advance of its plan to undertake this project and EPA personnel on-Site have observed the work of the contractor in recent weeks.

It is the Agency's understanding that the LSL replacement occurring in the fall 2017 construction season is in yards which EPA believes are not contaminated based on sampling/analysis results. EPA also notes that the sampling/analysis of soil excavated from below streets and sidewalks within the Superfund Site in relation to water main and sewer work by the City have shown no elevated levels of contaminants to date.

This week EPA discussed with the City both (1) tarping soil piles and (2) conducting sampling/analysis of excavated soil from below streets and sidewalks. It is our understanding that such procedures are being discussed among City personnel at this time. EPA is also considering conducting its own sampling/analysis of soil excavated from below streets and sidewalks within the Superfund Site during 2017. Finally, EPA is evaluating whether to enter into a more formal agreement with the City regarding sampling/analysis/disposal of excavated soil related to work scheduled to occur next year (in 2018), when LSL replacement is expected to occur in yards which EPA has remediated (that is, yards in which elevated levels of contaminant have been found in the past).

I hope that you find this information helpful. As I indicated to you on the telephone yesterday, EPA encourages you to also contact the City regarding these issues, since the City is directing the LSL replacement contractor.

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From: Deborah Gail Musiker [mailto:Debbie.M.Chizewer@law.northwestern.edu]
Sent: Friday, September 15, 2017 3:07 PM
To: Garypie, Catherine <garypie.catherine@epa.gov>; Chingcuanco, Leonardo <Chingcuanco.Leonardo@epa.gov>;

Kaiser, Steven <kaiser.steven@epa.gov>; Toney, Marcy <toney.marcy@epa.gov>; Guerriero, Margaret <guerriero.margaret@epa.gov>; Kaplan, Robert <kaplan.robert@epa.gov>; adouglas@ifa.in.gov; Hollingsworth, Mary <MHolling@idem.IN.gov>; cmorgan@eastchicago.com; bpigott@idem.IN.gov
Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Waikar, Anjali <awaikar@nrdc.org>; Mark Templeton <templeton@uchicago.edu>

Subject: RE: URGENT: Risk to Public Health--Lead Service Line

Apologies. In my earlier email, I forgot to attach the referenced email to April Douglas, IFA. Please find it now.

Thanks,

Debbie

From: Deborah Gail Musiker

Sent: Friday, September 15, 2017 1:46 PM

To: Garypie, Catherine <garypie.catherine@epa.gov>; Chingcuanco, Leonardo <Chingcuanco.Leonardo@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Toney, Marcy <toney.marcy@epa.gov>; guerriero.margaret@epa.gov; kaplan.robert@epa.gov; adouglas@ifa.in.gov; Hollingsworth, Mary <MHolling@idem.IN.gov>; cmorgan@eastchicago.com; bpigott@idem.IN.gov

Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Waikar, Anjali <awaikar@nrdc.org>; Mark Templeton <templeton@uchicago.edu>

Subject: URGENT: Risk to Public Health--Lead Service Line

Importance: High

Hi all,

As I described in a call with Catherine Garypie and Meleah Geerstma, NRDC, yesterday afternoon, we received disturbing information (including attached photographs) about threats to public health and the environment on the USS Lead Superfund site stemming from activities related to the replacement of lead service lines in Zone 3.

1. As part of the lead service line replacement process, East Chicago's contractor is digging up soil that is likely contaminated from underneath the streets.
3. The likely contaminated soil is then being placed on the street in open piles which are blowing on to adjacent properties as well as individuals in the community.
4. The workers are not wearing masks, using air monitors to evaluate the dust, or taking any other measures to prevent the escape of lead, arsenic, or other contaminants that are likely contained in the soil or characterize the material for waste disposal purposes.
5. Multiple residents called the EPA hotline today to report this problem.

As the lead agency on this Superfund Site, EPA must step in immediately and ensure the protection of human health and the environment. The purpose of the lead service line replacement is to reduce the lead exposure of this environmental justice community; instead, this activity is causing an increased risk to the community.

As you know, East Chicago owns the streets and sidewalks and the soil underneath those areas that is likely contaminated. In exchanges with EPA in the past, East Chicago has indicated an understanding that it has certain responsibilities when it undertakes work that disturbs contaminated material on the USS

Lead Site. It submitted a scope of work plan when it conducted Sewer Replacement on the Site in 2011: "USEPA has indicated that it is willing to let the City proceed with these activities provided the City funds these efforts, follows proper USEPA protocols, and the USEPA approves this Work Plan." See attached Work Plan, 1-1. In that plan, it indicated that it would evaluate disturbed soil to determine whether it has levels of lead or arsenic or other contaminants that would require reporting or action. Since that time, EPA and the City of East Chicago have exchanged letters regarding the City's questions about its obligations that would be triggered by redevelopment or sewer maintenance work at the site. These past practices related to City activity at the site beg the question: Why should not the lead service line replacement involve measures to address the likely contamination and prevent further release of hazardous substances?

Further, East Chicago's contractor's careless activity at the site , and the lack of supervision of this activity by East Chicago or EPA, jeopardize EPA's ability to complete a remedy that is consistent with the National Contingency Plan because it threatens public health and the environment.

We brought these concerns to EPA's attention back in early April 2017 when the Indiana Finance Authority (IFA) indicated that no Environmental Assessment (EA) was needed for the lead service line replacement. We submitted the attached email to IFA and spoke with Leo and Marcy. At that time, EPA indicated that it was unaware of the IFA's decision not to prepare an EA and would look into it.

We expect to hear back today, as promised by Catherine Garypie yesterday. Please respond as soon as possible and no later than noon on Monday, September 17. Please explain what EPA will do to address this urgent matter.

Thanks,

Debbie (Musiker) Chizewer
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 Bluhm Legal Clinic
 Northwestern University School of Law
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